

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BARBARA CASERO, As Personal
Representative of the Estate of
YLDELISA CALVO DORNHECKER; BARBARA
CASERO, Individually; MARIO CALVO,
Individually; and, YLDELISA CALVO,
Individually,

Plaintiffs

CIVIL ACTION NO.:04-221-GMS
AMENDED COMPLAINT

v.

JOSEPH V. LAMBERT, Individually;
and CAR RENTALS, INC.
_____ /

COMES NOW THE PLAINTIFFS, BARBARA CASERO, As Personal Representative
of the Estate of YLDELISA CALVO DORNHECKER, BARBARA CASERO, MARIO
CALVO, and YLDELISA CALVO, and sue Defendants, JOSEPH V. LAMBERT and CAR
RENTALS, INC., and allege:

NATURE OF THE ACTION

1. That this is an action for damages for the wrongful death of YLDELISA CALVO
DORNHECKER, decedent, on June 3, 2002 from an automobile accident, pursuant to 10 Del.C.
Sect. 3724, in excess of Seventy Five Thousand (\$75,000.00) Dollars, exclusive of cost, interest
and attorney's fees.

THE PARTIES

2. The Plaintiffs, BARBARA CASERO, MARIO CALVO, and YLDELISA
CALVO, all reside and are domiciled in Miami, Miami-Dade County, Florida.

3. The Plaintiff, BARBARA CASERO, is the duly appointed Personal Representative of the Estate of YLDELISA CALVO DORNHECKER, referred to in this complaint as decedent, who died on June 3, 2002.

4. The Defendant, JOSEPH V. LAMBERT, who was driving the automobile charged for causing the accident, at all times material hereto, resided at 75 Aspen Drive, Basking, Ridge, NJ 19973.

5. The Defendant, CAR RENTALS, INC., at all times material hereto, owner of the motor vehicle involved in the accident, is a New Jersey corporation, organized and doing business in the State of New Jersey.

FEDERAL SUBJECT MATTER JURISDICTION

6. The Court has federal subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1332, in that Plaintiff and Defendants are(a) citizens of different states, and (b) the amount in controversy is in excess of \$100,000.00.

PERSONAL JURISDICTION

7. The Court has personal jurisdiction in that the negligent actions complained of occurred within the State of Delaware, the pertinent investigations were conducted in the State of Delaware, and the action arose in the State of Delaware.

VENUE

8. Venue for this action properly lies in this District pursuant to 28 U.S.C. Section 1391(b)(c).

FACTUAL ALLEGATIONS

9.1. On December 8, 2003, Plaintiff, BARBARA CASERO, was appointed Personal Representative by the Register at Dover, Kent County, State of Delaware. A copy of said

appointment is attached as Exhibit A.

9.2. Plaintiffs, BARBARA CASERO, MARIO CALVO, AND YLDELISA CALVO, are individually authorized as named beneficiaries to bring this action for the wrongful death of YLDELISA CALVO DORNHECKER, pursuant to *10 Del.C. Sect. 3724* and *Johnson v. Physicians Anesthesia Service, P.A.*, 621 F.Supp. 908, 916 (D.Del.1985).

9.3. Plaintiff, BARBARA CASERO, as the Personal Representative of the Estate of YLDELISA CALVO DORNHECKER, is duly authorized to bring this wrongful death action on behalf of the estate, pursuant to *10 Del.C. Sect. 3724* and *Johnson v. Physicians Anesthesia Service, P.A.*, 621 F.Supp. 908, 916 (D.Del.1985).

9.4. The parties¹ in this wrongful death action, and their relationship to decedent are as follows:

- (a) Mario Calvo, her father, 7575 S.W. 29th Street, Miami, Florida 33155;
- (b) Yldelisa Calvo, her mother, 7575 S.W. 29th Street, Miami, Florida 33155; and
- (c) Barbara Casero, her sister, 2786 W. 68th Place, Hialeah, Florida 33016.

10. On June 3, 2002, at about 12:24 a.m., decedent was traveling southbound, as a passenger, in a 1987 Honda, CRX, DE temporary registration number XA576238, with vehicle identification number JHMEC1347HS00724, on State Road 1 approaching the intersection at State Road 14, in Milford, Kent County, Delaware.

¹Upon information and belief, Mikel Dornhecker, the surviving spouse, settled out of court his claim for personal injuries and his claim for the loss of his wife. Therefore, Mr. Dornhecker settled his claims without filing suit. Furthermore, a review of the court docket for both Kent County Superior Court and Sussex County Superior Court in the State of Delaware confirmed that no lawsuit was ever filed by Mr. Dornhecker for the wrongful death of his wife.

11. On June 3, 2002, at the same time, Defendant, JOSEPH V. LAMBERT, was driving eastbound, with the knowledge and consent of Defendant, CAR RENTALS, INC., its owner, a 2001 Chevrolet Lumina, NJ registration KRN19U, with vehicle identification number 2G1WL52J111165901, on State Road 14 when he ran the stop sign, failed to stop as required at the intersection of with State Road 1, and he violently impacted the 1987 Honda, CRX, in which decedent was traveling.

12. Defendant, JOSEPH V. LAMBERT, negligently drove his automobile on the date, time and location mentioned, in that Defendant caused said automobile to collide violently with the vehicle in which the decedent was traveling.

13. Defendant, JOSEPH V. LAMBERT, was charged for causing said accident, received a citation as a result, and accepted responsibility by pleading guilty to the charge.

14. As a direct and proximate result of the Defendants' (JOSEPH V. LAMBERT and CAR RENTALS, INC.) negligence, decedent was severely injured, and as further direct and proximate result of defendants' negligence, decedent was killed on June 3, 2002.

15. As a result of Defendants' (JOSEPH V. LAMBERT and CAR RENTALS, INC.) negligence, BARBARA CASERO, MARIO CALVO, AND YDELISA CALVO, suffered and sustained damages as follows:

- (a) All damages as set forth in 10 Del.C. Sect. 3724(a)(b)(c) and (d)(1-4);
- (b) Deprivation of the expectation of pecuniary benefits;
- (c) Loss of contribution for future support; and
- (d) Reasonable funeral expenses;

WHEREFORE, Plaintiffs, BARBARA CASERO, as Personal Representative of the Estate of YLDELISA CALVO, BARBARA CASERO, MARIO CALVO, and YLDELISA

CALVO, request judgment against Defendants, JOSEPH V. LAMBERT and CAR RENTALS, INC., for damages in a sum within the jurisdictional limit of this court, together with costs of suit, and any further relief as the court deems proper. Plaintiff demands trial by jury as to all issues so triable as a matter of right.

HUDSON, JONES, JAYWORK & FISHER, LLC

DATED: 16 May 2005

BY: /S/ BETH DEBORAH SAVITZ (ID #3774)
BETH DEBORAH SAVITZ (ID #3774)
225 South State Street
Dover DE 19901
(302) 734-7401
bsavitz@delawarelaw.com
Attorney for Plaintiffs

ADMITTED *PRO HAC VICE*:

JESUS O. CERVANTES
Florida Bar No.: 402087

LUIS FERNANDEZ
Florida Bar No.: 271578

LAW OFFICES OF JESUS O. CERVANTES
8550 W. FLAGLER STREET, STE. 120
MIAMI, FLORIDA 33144
(305)228-1122
(305)228-0939

LAW OFFICES OF LUIS FERNANDEZ
2250 S.W. 3d AVENUE, STE. 303
MIAMI, FLORIDA 33129
(305)854-5955
(305)854-5324